

**CVS ALBANY, LLC.  
D/B/A CVS CAREMARK**

**Cases 29-RC-155963  
29-RC-155970  
29-CA-156744**

**LOCAL 338, RETAIL, WHOLSEALE AND  
DEPARTMENT STORE UNION,  
UNITED FOOD AND COMMERCIAL  
WORKERS INTERNATIONAL UNION**

CVS Albany, LLC d/b/a, CVS Caremark (“Respondent”), by its counsel, JACKSON LEWIS P.C., submits this motion to adjourn the hearing currently scheduled to commence on December 8, 2015. Respondent seeks this adjournment because both of the undersigned counsel of record in the instant case will be engaged in an unfair labor practice hearing in Chicago – Guitar Center Stores, Inc., Case No. 13-CA-130466 et. al., (“Guitar Center Hearing”) – commencing December 1, 2015. On November 19, 2015, in accordance with a ruling rendered by the presiding Administrative Law Judge, the undersigned counsel definitively learned that the Guitar Center Hearing would be scheduled over consecutive weeks, including the week of December 7, 2015, when the instant hearing is set to begin.

Counsel for Local 338 of the Retail, Wholesale and Department Store Union, RWDSU, United Food and Commercial Workers ("Union") and Counsel for the General Counsel, Noor Alam, consent to an adjournment of the trial. The trial is scheduled to commence fewer than 21 days from the date of the instant motion.

#### **EXPLANATION OF REQUEST FOR ADJOURNMENT**

On September 26, 2015, Respondent's counsel, Michael Cooper, e-mailed Region 29 Board Agent, Matthew Jackson, requesting that the hearing in the instant matter be scheduled so as to not conflict with the Guitar Center Hearing set to commence on December 1, 2015 in Chicago. (A true and correct copy of this e-mail is attached hereto as Exhibit "A."). Shortly thereafter, Region 29 issued the complaint in the CVS matter scheduling the hearing to commence on December 8, 2015. At the time the CVS complaint was issued, the undersigned counsel expected that the Guitar Center Hearing would proceed on December 1, 2, 3, and 4, 2015 and then resume on a date in either late December 2015 or January 2016 which would not conflict with the instant hearing. Thus, the undersigned counsel fully expected to commence the instant case on December 8, 2015.

On November 18, 2015, Counsel for the General Counsel in the Guitar Center Hearing notified the undersigned counsel that it intended to proceed over consecutive days beyond December 4, 2015, including December 7, 8, 9, 10, and 11, thereby conflicting with the commencement of the instant matter. The undersigned counsel immediately reminded Counsel for the General Counsel in the Guitar Center Hearing that this would conflict with the trial in the instant matter, about which Counsel for the General Counsel had been previously advised. Nevertheless, Counsel for the General Counsel in the Guitar Center Hearing noted that he would oppose any request to hold the Guitar Center Hearing in non-consecutive weeks. On November

19, 2015, Administrative Law Judge Muhl directed that the Guitar Center Hearing be scheduled over consecutive weeks, thus posing the instant conflict.


Ms. Alam has suggested January 19, 2015 as a potential date to reschedule the instant hearing. We are checking internally with our client to determine whether such a date would work for Respondent's witnesses. The undersigned would also welcome the opportunity to participate in a pre-hearing conference with the assigned Administrative Law Judge in this case to further discuss scheduling.

We thank our adversaries for their courtesies and the Division of Judges for its attention to this matter.

Respectfully submitted,

Dated: November 20, 2015

By:

  
\_\_\_\_\_  
Michael R. Cooper  
Daniel D. Schudroff  
JACKSON LEWIS P.C.  
666 Third Avenue, 29<sup>th</sup> Floor  
New York, New York 10017  
212-545-4000

**CERTIFICATE OF SERVICE**

I hereby certify that on November 20, 2015, I caused a true and correct copy of the foregoing Respondent's Motion to Adjourn Trial to be served on Counsel for the General Counsel, Noor Alam, and Local 338 RWDSU/UFCW's counsel of record, Jae W. Chun, via electronic mail, at the following address of record:

Noor I. Alam, Field Attorney  
National Labor Relations Board, Region 29  
Two Metro Tech Center, Suite 5100  
Brooklyn, NY 11201-3838  
Noor.Alam@nlrb.gov

Jae W. Chun  
Friedman & Anspach  
1500 Broadway, Suite 2300  
New York, New York 10036  
(212) 354-4500  
Facsimile: (212) 719-9072  
jchun@friedmananspach.com

/s Daniel Schudroff  
Daniel D. Schudroff

# **EXHIBIT A**

## Schudroff, Daniel D. (NYC)

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**From:** Cooper, Michael R. (NYC)  
**Sent:** Thursday, November 19, 2015 5:22 PM  
**To:** Schudroff, Daniel D. (NYC)  
**Subject:** FW: CVS Caremark - Case 29-CA-156744

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**From:** Cooper, Michael R. (NYC)  
**Sent:** Saturday, September 26, 2015 3:51 PM  
**To:** 'Jackson, Matthew'  
**Subject:** RE: CVS Caremark - Case 29-CA-156744

Mr. Jackson,

In response to your inquiry, my client has asked me to advise you that it will not be settling this case. I have an unfair labor practice hearing beginning at the Chicago Region on December 1, 2015, and am hereby requesting that the hearing in the above-referenced case be scheduled so as to avoid any conflict. Thanks in advance for your consideration of this request.

I will be in the office most of the coming week. Please give me a call if you want to discuss this.

Michael R. Cooper  
Attorney at Law  
Jackson Lewis P.C.  
666 Third Avenue  
New York, NY 10017

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212-972-3213 | Fax

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**From:** Jackson, Matthew [<mailto:Matthew.Jackson@nlrb.gov>]  
**Sent:** Tuesday, August 11, 2015 10:49 AM  
**To:** Cooper, Michael R. (NYC)  
**Cc:** [kglev@cvcs.com](mailto:kglev@cvcs.com)  
**Subject:** CVS Caremark - Case 29-CA-156744

Dear Mr. Cooper:

Please see the attached letter describing the allegations made by the Charging Party in the above-captioned case and requesting that the Employer provide its position and evidence in response to the charge allegations by **August 21**.

Feel free to contact me if you have questions or wish to discuss the matter.

Regards,

**Matt Jackson**

Field Attorney

National Labor Relations Board

Region 29

2 MetroTech Center, 5<sup>th</sup> Floor

Brooklyn, NY 11201

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